

REMARKS

Claims 1-30 are currently pending in the application. By this Amendment, claims 16 and 30 are amended. In the Office Action, claims 1-30 were rejected. Claims 1-2, 5-10, and 23-30 are rejected under 35 USC § 102(b) as being anticipated by U.S. Patent Application No. 10/443,177 to Heyns et al. (hereafter "Heyns"). Claims 3-4 and 21-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Heyns in further view of Official Notice.

Reconsideration of the rejected claims is respectfully requested in view of the above amendments and following remarks.

Heyns does not anticipate the claims

The Office Action rejects claims 1-2, 5-10, and 23-30 as being anticipated by Heyns. Heyns discloses a method for aiding management in selecting goals for an organization based on querying a computer database. Heyns further discloses software tools to aid management in the budgeting process by performing financial comparisons of companies and projecting stock values based on inputted strategies.

To establish a prima facie case of anticipation under 35 U.S.C. § 102(b), the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present. MPEP 2131. Applicant respectfully submits that this criterion has not been met for Heyns as applied to claims 1-2, 5-10, and 23-30 of the present invention.

For example, claim 1 of the present invention recites, in part, "a cost lever analysis tool adapted to receive financial data inputs regarding the target company and calculate normalized diagnostic information." Heyns fails to disclose a tool for calculating normalized diagnostic information, as recited in claim 1. In fact, Heyns explains that "differences in accounting standards and reporting practices across companies, industries and countries may lead to consolidation and standardization variations" with Heyns's invention and that "[t]he data is not a substitute for understanding the implications associated with financial reporting practices of a specific company, industry or company [sic]." Heyns, paragraph 62. Heyns discloses one of the very problems that this invention is designed to solve. However, Heyns does not disclose a tool for calculating normalized diagnostic information, as recited in claim 1.

For at least this reason, Heyns fails to teach or suggest all the elements of claim 1. Thus, Applicant respectfully submits that the rejection of claim 1 is now moot and that the claim is now in condition for allowance. Claims 2-15 depend directly or indirectly from claim 1 and incorporate all the limitations of claim 1. Applicant submits these dependent claims are allowable for at least the reasons cited above with respect to claim 1.

Furthermore, Heyns does not disclose an electronic network system “wherein said cost levers identified by said cost lever analysis tool are correlated by said cost reduction strategy tool to one or more appropriate business capabilities recommended as providing at least one element of a cost reduction strategy adapted to target one or more of said identified cost levers.” Heyns discloses a set of software tools for evaluating business decisions inputted by the user into a software interface to produce data and graphs predicting future stock values and cash flows. Heyns does not disclose a system that identifies cost levers and recommends appropriate cost reduction strategies based on analysis performed by the invention.

For this additional reason, Heyns fails to teach or suggest all the elements of claim 1. Thus, Applicant again respectfully submits that the rejection of claim 1 is now moot and that the claim and all dependent claims are now in condition for allowance.

With respect to claim 16, Heyns does not disclose a computer storage medium with operations including “performing financial calculations on said financial data to produce normalized diagnostic information regarding the cost structure of said target company.” As mentioned above with regard to claim 1, Heyns highlights the problem of a lack of normalization in the Heyns invention but does not disclose performing the normalization calculations.

Also, Heyns does not disclose “correlating a plurality of business capabilities with a plurality of possible cost levers.” Heyns discloses four tools to aid in strategic planning by producing data and graphs for inputted strategies, but Heyns does not disclose an interworking between the tools to the degree of correlating business capabilities with cost levers.

For at least these reasons, Heyns fails to teach or suggest all the elements of claim 16. Thus, Applicant respectfully submits that the rejection of claim 16 is now moot and that the claim is now in condition for allowance. Claims 17-30 depend directly or indirectly from claim 16 and incorporate all the limitations of claim 16. Applicant submits these dependent claims are allowable for at least the reasons cited above with respect to claim 16.

Heyns does not render the claims obvious

Claims 3-4 and 21-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Heyns in view of Official Notice.

To establish a prima facie case of obviousness, three criteria must be met. First, there must be some reason to modify the reference or to combine the reference teachings. Second, there must be some expectation of success. Third, the prior art references must disclose or suggest all of the claimed features. See MPEP 2143 and the May 3, 2007 letter from the PTO Deputy Commissioner for Patent Operations regarding *KSR Int'l Co. v. Teleflex, Inc.* Applicant respectfully submits that these criteria have not been met for Heyns in view of Official Notice as applied to claims 3-4 and 21-22 of the present invention.

Claims 3-4 and 21-22 depend directly or indirectly from claims 1 or 16 and incorporate all the limitations of the base claims. As noted above with respect to claims 1 and 16, Heyns fails to teach or suggest at least the claimed calculation or production of normalized diagnostic information. The Official Notice does not address this deficiency. Thus, Applicant submits that a prima facie case of obviousness is lacking for claims 3-4 and 21-22 for at least this reason. Withdrawal of the rejection based on 35 USC § 103(b) is requested.

CONCLUSION


For all of the foregoing reasons, it is respectfully requested that the rejections set forth in the Office Action be withdrawn. All pending claims are allowable over the art of record, and the application is submitted to be in condition for allowance. Favorable reconsideration and a timely Notice of Allowance are respectfully requested.

In the event that an appropriate fee amount is not enclosed by check for fees associated with new claims, an extension of time or an Information Disclosure Statement, fees that may be due, please charge any deficiencies or credit any overpayments to deposit account no. 50-1349.

Finally, in the event that the Examiner considers certain currently rejected claims to be allowable over the prior art and feels that informal discussion would be helpful in progressing the current application toward allowance, the Examiner is invited to contact the undersigned by telephone.

Respectfully submitted,

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By: 
Celine Jimenez Crowson
Registration No. 40,357

HOGAN & HARTSON LLP
555 13th Street, N.W.
Washington, D.C. 20004
Telephone: (202) 637-5600
Facsimile: (202) 637-5910
Customer No. 30398

Kevin G. Shaw
Registration No. 43,110